



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,291	02/11/2002	Patrice J. McCune	MA-12918	2439

7590 07/29/2004

Fay Sharpe Fagan Minnich & McKee LLP  
1100 Superior Avenue  
Seventh Floor  
Cleveland, OH 44114-2518

EXAMINER

VO. HAI

ART UNIT PAPER NUMBER

1771

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/071,291	MCCUNE, PATRICE J.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hai Vo	1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2,5,6,8,14-31,33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) 16-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,5,6,8,14,15,33 and 34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

1. All of the art rejections in the 02/18/2004 have been overcome by the present arguments. However, upon further consideration, a new ground of rejection is made in view of Brodeur, Jr. (US 6,187,865) and Conrad et al (US 6,245,697).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 5, 6, 14, 33 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Brodeur, Jr. (US 6,187,865). Brodeur, Jr. teaches a laminate comprising a continuous polyolefin film having a thickness from 1 to 10 mils (column 3, lines 1-5) and a continuous foam layer of uniform thickness from 20 to 40 mils (column 3, lines 14-15). The foam layer defines a non-slip bottom surface for contacting the household surface (column 1, lines 10-12, 38-42). The laminate is readily converted into a compact wrinkle free roll that can be wound and unwound without sticking, wrinkling or distorting (column 1, lines 49-52). Likewise, the laminate is flexible and curl-resistant. The laminate adhere to horizontal and vertical smooth surfaces of any kind without the need for adhesives (column 2, lines 40-45). The foam contains a styrene butadiene polymer, rubber (example iv). There is no suggestion or teaching in the Brodeur,

Jr. invention that the foam composition contains plasticizers. It is the examiner's position that Brodeur, Jr. anticipates the claimed subject matter.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brodeur, Jr. (US 6,187,865) as applied to claim 14 above, and further in view of the prior art as admitted by Applicant at page 5, lines 11-16 of Applicant's specification (herein after referred to as the admitted prior art). Brodeur, Jr. does not teach the plastic top film being impregnated with polycarbonate to provide skin characteristics on the surface of the film. However, Applicant admitted that the polycarbonate impregnation is part of commercially available polypropylene film when the film is ordered (page 5, lines 11-16 of Applicant's specification). Likewise, it is clearly apparent that the top film impregnated with polycarbonate to promote the adhesion is not first invented by Applicant but rather is accomplished by the film vendor. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the top plastic film having been pre-treated with polycarbonate prior to lamination to the bottom foam layer motivated by the desire to promote adhesion between the top plastic

film layer and the bottom foam layer, which is important to the expectation of successfully practicing the invention of Brodeur, Jr., thus suggesting the modification.

6. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodeur, Jr. (US 6,187,865) as applied to claim 14 above, further in view of Conrad et al (US 6,245,697). Brodeur, Jr. teaches the laminate comprising the vinyl film made of polyethylene or olefin film (column 3, lines 3-4). Brodeur, Jr. does not specifically disclose the vinyl film formed from polypropylene. Conrad, however, disclose a flexible mats containing a waterproof layer formed from a polypropylene film (column 7, lines 4-6). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace polypropylene for the polyethylene of the liquid impervious layer since the two polymers have been shown in the art to recognized equivalent olefin polymers for the liquid impervious materials.

Brodeur, Jr. does not specifically disclose that the top film layer is coated with a primer and foam layer adheres to the primer. Conrad, however, teaches a flexible mat comprising a waterproof sheet secured to the foam layer by a uniform continuous layer of adhesive to promote the adhesion between the waterproof sheet and the foam layer (column 7, lines 25-30). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the adhesive layer to bond the foam layer to the top impervious

Art Unit: 1771

layer motivated by the desire to promote the adhesion between the foam layer and the top impervious layer.

***Response to Arguments***

7. All of the art rejections have been withdrawn in view of the present arguments.

Ramesh does not teach the foam layer which defines a non-slip bottom surface as recited in the claims. Ramesh teaches that the polyolefin foam itself has a very relatively low coefficient of friction (column 1, lines 15-20), which makes it difficult to a sufficient degree of surface tack to stay in place to a wide variety of horizontal or vertical planes without the use of adhesive. However, upon further consideration, a new ground of rejection is made in view of Brodeur, Jr. (US 6,187,865) and Conrad et al (US 6,245,697).

8. Claims 1, 9-13 and 32 are canceled.

***Drawings***

9. The drawings were received on 06/14/2004. These drawings are acceptable.

***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on M,T,Th, F, 7:00-4:30 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax

Art Unit: 1771

phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV

Hai Vo  
Tech Center 1700